

**INDIVIDUAL MOTION PRACTICE AND RULES OF
JUDGE DORA L. IRIZARRY
United States District Court
225 Cadman Plaza East
Brooklyn, NY 11201**

**Chambers: (718) 613-2150
Fax: (718) 613-2156
Fax Page Limit: 10 Pages**

**Contact: Courtroom Deputy Christy Carosella
Telephone: (718) 613-2155
Hours: 10 AM - 5 PM (Monday - Friday)**

I. ELECTRONIC CASE FILING (ECF)

- A. ALL documents MUST be filed electronically.
- B. Orders will be posted electronically. Parties not registered on ECF will not receive them.
- C. Hard copies of all motions and exhibits must be provided to Chambers. All such papers must be clearly marked “Courtesy Copy,” “Original Filed by ECF,” and “Assigned Document Number ____.”
- D. Parties filing voluminous or non-text exhibits may choose to file only hard copies of those exhibits when electronic filing of those exhibits is impracticable. If exhibits are not electronically filed, one copy must be clearly marked “Original” and the other marked “Courtesy Copy.” Related papers that are electronically filed must clearly indicate that exhibits have been filed by hard copy.
- E. Pro se parties are automatically exempt from mandatory electronic filing. However, parties represented by counsel in pro se cases must file documents electronically and mail a hard copy of the documents to the pro se litigant.
- F. Requests by attorneys for an exemption to the mandatory policy will be considered for good cause hardship reasons only and will be reviewed on an individual basis by the assigned U.S. Magistrate Judge. However, no request will be granted until the attorney has registered for ECF and sought ECF training. Questions regarding ECF filing or training should be directed to Terry Vaughn or Marilyn Glenn at (718) 613-2330.
- G. Sealed documents or documents containing sealed/sensitive information must be

submitted in hard copy only and be labeled "Sealed/Sensitive." Please see Administrative Order No. 2004-05, *In Re: Requests to Seal Documents* (E.D.N.Y. Apr. 20, 2004) for additional requirements.

II. COMMUNICATIONS WITH CHAMBERS

A. *Letters.*

Except as provided below, communication with chambers shall be by letter filed electronically. Copies of correspondence between counsel shall not be sent to the Court.

B. *Telephone Calls.*

Except as provided in Rule II.D below, telephone calls to chambers are permitted only in emergency situations requiring immediate attention. In such situations only, call chambers at the number listed above.

C. *Faxes.*

Faxes to chambers are not permitted unless prior authorization is obtained. When authorized, the cover sheet shall so state. Any unauthorized faxes will be rejected. Copies must be filed electronically. No document longer than ten (10) pages may be faxed. Do not follow with hard copy.

D. *Docketing, Scheduling, and Calendar Matters.*

For docketing, scheduling, and calendar matters, call the contact listed above.

E. *Requests for Adjournments or Extensions of Time.*

All requests for adjournments or extensions of time must state:

1. Reason for the request;
2. The original date;
3. The number of previous requests for adjournments or extensions;
4. Whether these previous requests were granted or denied;
5. Whether the adversary consents, and, if not, the reason given by the adversary for refusing to consent; and
6. Proposed date(s) for adjournment or extension of time.

If the request is for an adjournment of a court appearance, absent an emergency, it shall be made at least 2 business prior to the scheduled appearance. All requests for extensions must be made reasonably in advance of the deadline for which the extension is sought.

III. MATTERS REFERRED TO ASSIGNED U.S. MAGISTRATE JUDGES

- A. The following matters are hereby referred to the assigned U.S. Magistrate Judge:

1. Extensions of time to serve, answer, or file amended pleadings;
2. Motions to amend the pleadings;
3. Stipulations amending pleadings;
4. Stipulations transferring venue or remanding to state court;
5. Pro hac vice motions;
6. So ordering of subpoenas and confidentiality/protective orders;
7. Motions to quash subpoenas;
8. Unsealing orders;
9. Motions to be relieved as counsel; and
10. Requests for adjournments or extensions of time in arbitration or mediation proceedings.

All such applications shall be directed to the assigned U.S. Magistrate Judge.

- B. U.S. Magistrate Judges preside over all pre-trial case management, discovery, and settlement matters. *See* 28 U.S.C. § 636(b)(1), (c); Local Civil Rule 72.2.

IV. CIVIL MOTIONS

- A. *Pre-Motion Conferences.*

1. For discovery motions, follow Local Civil Rules 6.4 and 37.3.
2. Except as set forth below, in paragraph No. 4, in all cases—other than in habeas corpus/prisoner petitions and Social Security and Bankruptcy appeals—a pre-motion conference with the Court is required before making any dispositive motion or motion for a change of venue.
3. To arrange a pre-motion conference, the moving party shall submit a letter not to exceed three (3) pages in length setting forth the basis for the anticipated motion. All parties so served may serve and file a letter response, not to exceed three (3) pages, within seven (7) days from service of the notification letter.
4. Pre-motion conferences are not required for the following motions: motions in lieu of an answer pursuant to Fed. R. Civ. P. 12(b); objections to U.S. Magistrate Judge orders pursuant to Fed. R. Civ. P. 72; and motions to remand to state court. The time periods for such motions are prescribed by the Federal Rules of Civil Procedure. Where the Federal Rules of Civil Procedure are silent on time limitations, a ten-day time limitation shall apply.

- B. *Courtesy Copies.*

Courtesy copies of all motion papers and exhibits must be submitted to Chambers. All such papers must be clearly marked “Courtesy Copy,” “Original Filed by ECF,”

and “Assigned Document Number ____.”
Courtesy copies of letters are not to be submitted.

C. *Memoranda of Law.*

Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, not including appendices or attachments, and reply memoranda are limited to 10 pages, not including appendices or attachments. Memoranda of 10 pages or more shall contain a table of contents. All memoranda of law shall be produced in a font size of 12 (or higher) and shall have one-inch margins on all sides. All memoranda must have the date of service plainly visible on the front cover. No letter briefs shall be permitted. *See* Local Civil Rule 7.1. Memoranda of law that fail to comply with the foregoing requirements will be rejected.

D. *Filing of Motion Papers.*

1. Except for motions described in Rule IV.A.4, the bundle rule applies: No motion papers shall be filed until the motion has been fully briefed. The notice of motion and all supporting papers are to be served on the other parties along with a cover letter setting forth whom the movant represents and the papers being served.
2. The original moving party shall be responsible for filing all motion papers. For all cases where electronic filing is required (see Rule I above), the moving party shall be responsible for the electronic filing of all motion papers. The adversary is responsible for providing the movant with a PDF version of opposition papers and courtesy copies for chambers. The movant is further obligated to furnish to chambers a full set of courtesy copies of the motion papers together with a cover letter specifying each document in the package.

E. *Oral Argument.*

Parties may request oral argument at the time their moving or opposing papers are filed. A request for oral argument shall be made by typing “Oral Argument Requested” below the docket number on the moving or opposing papers. The Court will determine whether to hear oral argument and, if so, will advise counsel of the argument date.

F. For questions about procedure not covered by these rules, please refer to the Federal Rules of Civil Procedure and the Local Rules for the Eastern District of New York.

V. CRIMINAL MOTIONS

A. *Pre-Motion Conferences in Criminal Cases.*

Counsel shall advise the Court of any motions they want to file at a status conference scheduled by the Court. If no status conference has been scheduled, counsel shall request a pre-motion conference in writing and briefly state the grounds for any anticipated motion. To arrange a pre-motion conference, the moving party shall submit a letter not to exceed five (5) pages in length setting forth the basis for the anticipated motion. All parties so served may serve and file a letter response, not to exceed five (5) pages, within seven (7) days from service of the notification letter.

B. *Filing of Motion Papers.*

The bundle rule does not apply. Parties shall file their respective motion papers electronically according to the briefing schedule set by the Court. Courtesy copies of all motion papers and exhibits must be submitted to chambers.

All such papers must be clearly marked “Courtesy Copy,” “Original Filed by ECF,” and “Assigned Document Number ____.”

C. *Memoranda of Law.*

Unless prior permission has been granted, memoranda of law in support of and in opposition to motions are limited to 25 pages, not including appendices or attachments, and reply memoranda are limited to 10 pages, not including appendices or attachments. Memoranda of 10 pages or more shall contain a table of contents. No letter briefs shall be permitted.

D. *Oral Argument on Motions.*

Parties may request oral argument at the time their moving or opposing papers are filed. A request for oral argument shall be made by typing “Oral Argument Requested” below the docket number on the moving or opposing papers. The Court will determine whether to hear oral argument and, if so, will advise counsel of the argument date.

E. *Sentencing Motions.*

Parties are encouraged to submit pre-sentence motions. Applications for either upward or downward departures or non-guideline sentences shall be made in writing at least seven (7) business days prior to the date of sentencing. The opposing party’s response, if any, shall be made in writing at least four (4) business days before the date of sentencing and shall be filed electronically.

VI. PRE-TRIAL PROCEDURES IN CIVIL CASES

A. *Joint Pre-Trial Orders.*

Unless otherwise ordered by the Court, within 60 days of the discovery completion date, the parties shall submit to the Court a proposed joint pre-trial order, in the form

found at [\[click here for link\]](#).

Joint pre-trial orders shall be directed to and approved by the U.S. District Judge. However, if the parties have consented to trial of the case by a magistrate judge, the joint pre-trial order shall be directed to and approved by the assigned U.S. Magistrate Judge.

The joint pre-trial order shall include the following information:

1. The full names, addresses (including e-mail addresses), and telephone and fax numbers of all trial counsel.
2. A brief statement by the plaintiff as to the basis of subject matter jurisdiction, and a brief statement by other parties as to the presence or absence of subject matter jurisdiction. Such statements shall include citations to all statutes relied on and relevant facts as to citizenship and jurisdictional amount.
3. A brief summary by each party of the claims and defenses such party has asserted that remain to be tried without recital of evidentiary matter but including citations to all statutes relied on. Such summaries shall identify all claims and defenses previously asserted that are not to be tried.
4. A statement by each party as to whether the case is to be tried with or without a jury and the number of trial days needed.
5. A statement as to whether or not all parties have consented to trial of the case by a magistrate judge (without identifying which parties have or have not so consented).
6. Stipulations of fact or law. Such stipulations are encouraged.
7. A list of the names and addresses of all witnesses, including possible witnesses who will be called only for impeachment or rebuttal purposes and so designated, together with a brief narrative statement of the expected testimony of each witness. The parties will list and briefly describe the basis for any objections to witnesses offered by any other party. Unless prompt notice is given and good cause shown, only listed witnesses will be permitted to testify.
8. A schedule listing exhibits to be offered in evidence and, if not admitted by stipulation, the party or parties that will be offering them. The schedule will also include possible impeachment documents and/or exhibits, as well as exhibits that will be offered on rebuttal. The parties will list and briefly describe the basis for any objections to the admissibility of any exhibits.

Parties are expected to resolve all issues of authenticity, chain of custody, and related grounds before trial. Meritless objections based on these grounds may result in the imposition of sanctions. Except for good cause shown, only listed exhibits will be received in evidence.

9. Proposed motions addressing evidentiary or other issues that should be resolved *in limine*.

B. *Exhibits.*

All exhibits must be pre-marked for trial and exchanged with other parties at least 10 days before trial. Exhibits should be placed in binders with tabs. No later than the first day of trial, all parties are to provide the Court with tabbed binders containing copies of all exhibits. All documents to be offered in evidence that contain multiple pages shall be paginated by counsel in advance of trial. Where counsel anticipates that a witness will refer to documentary evidence in the course of his or her direct testimony, counsel shall have copies of the document(s) available for opposing counsel, each juror, the court stenographer, and two copies for the Court.

C. *Pre-Trial Conference.*

The Court shall schedule a pre-trial conference upon the filing of the joint pre-trial order. Absent an emergency, requests for adjournments of the pre-trial conference shall be made at least 2 business days prior to the scheduled appearance and in accordance with Rule II.E above. Trial counsel's presence is required.

VII. FILINGS PRIOR TO TRIAL IN CIVIL CASES

Unless otherwise ordered by the Court—15 days before the commencement of trial—parties must submit the following:

- A. Proposed voir dire questions, jury instructions, and verdict sheet. Parties shall submit a hard copy of such materials and a 3.5" diskette or CD in IBM WordPerfect format. Requests to charge should be limited to elements of the claims, the damages sought, and defenses. General instructions will be prepared by the Court.
- B. By claim, a detailed statement regarding damages and other relief sought.
- C. In non-jury cases, a statement of the elements of each claim or defense involving each party, together with a summary of the facts relied upon to establish each element.
- D. A pre-trial memorandum in any case where a party believes such would be useful.

VIII. EXPECTATIONS AND REQUIREMENTS FOR TRIALS

- A. Trial sessions will begin promptly.
- B. Counsel should be prepared with witnesses to proceed continuously to the end of trial without interruption.
- C. *Applications.*
If counsel has any applications to make before testimony begins at any trial session, (s)he should alert his or her adversary and notify the courtroom deputy clerk well before the judge takes the bench.
- D. All counsel shall remain seated and attentive while a witness is being sworn.
- E. Counsel will question all witnesses from behind the lectern and should approach a witness only with the permission of the Court.
- F. *Objections.*
 - 1. Counsel shall rise when making objections or addressing the Court.
 - 2. In making objections, counsel should initially state the broad ground for the objection, e.g., leading, argumentative, irrelevant, etc. If the basis of the objection is not clear, the Court will request further elaboration or argument, which will be conducted at a sidebar conference. Arguments before the jury, either as to objections or the Court's rulings, will not be permitted.
- G. *Learned Treatises.*
In all cases in which counsel intends to read statements from "learned treatises" to the jury pursuant to Fed. R. Evid. 803(18), the following procedure must be followed:
 - 1. Copies of any statements to be used shall be marked and designated in the same manner as set forth in Rule VI.B. At trial, the Court shall be provided with an extra copy of each statement to be read to the jury.
 - 2. Before reading the statement, counsel will indicate to the Court, out of the jury's hearing, how the statement has been established as a reliable authority.
 - 3. These requirements do not apply to impeachment on cross-examination by textbook or treatise material acknowledged by the expert witness to be a reliable authority.
- H. *Documentary Exhibits.*
All documents to be offered in evidence that contain multiple pages shall be paginated by proposing counsel in advance of trial. Where it is anticipated that a

witness will refer to documentary evidence in the course of his or her direct testimony, proposing counsel shall have copies of the document(s) available for opposing counsel, each juror, the court stenographer, and two copies for the Court.

IX. POST-TRIAL PROCEDURES

In non-jury trials, parties shall file proposed findings of fact and conclusions of law no later than 10 days after the conclusion of trial. No responses to such submissions shall be permitted.